



## INTERIOR BOARD OF INDIAN APPEALS

Ann Marie Astells, et al. v. Sacramento Area Director, Bureau of Indian Affairs

28 IBIA 100 (07/10/1995)

Reconsideration denied:  
28 IBIA 122



## United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS  
INTERIOR BOARD OF INDIAN APPEALS  
4015 WILSON BOULEVARD  
ARLINGTON, VA 22203

ANN MARIE ASTELLS and  
BRUCE COTTON,  
Appellants

v.

SACRAMENTO AREA DIRECTOR,  
BUREAU OF INDIAN AFFAIRS,  
Appellee

: Order Docketing Appeal, Vacating  
: Decision, and Remanding Case to  
: Area Director  
:  
:  
: Docket No. IBIA 95-126-A  
:  
:  
: July 10, 1995

On June 6, 1995, the Board of Indian Appeals received a notice of appeal from Ann Marie Astells and Bruce Cotton, pro sese. Appellants sought review of an April 28, 1995, decision of the Sacramento Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning the validity of an August 7, 1994, General Council meeting of the Lone Pine Paiute-Shoshone Indian Tribe. Although ostensibly appealing the Area Director's decision, appellants' notice of appeal suggested that their real concern was not with the August 7, 1994, meeting addressed by the Area Director but rather with an April 20, 1994, General Council meeting and, in particular, with a resolution adopted at the April 20, 1994, meeting. 1/

The Board therefore requested appellants to advise it whether they did in fact seek a decision concerning the validity of the April 20, 1994, meeting, rather than the August 7, 1994, meeting. The Board also requested the Area Director to furnish it with a copy of any decision he may have issued concerning the validity of the April 20, 1994, meeting.

Appellants' response confirms that they seek a decision concerning the April 20, 1994, meeting. They contend, however, that the validity of that meeting is at issue in this appeal, even though the Area Director failed to address it. The Area Director has not furnished the Board with a copy of any decision concerning the April 20, 1994, meeting. The Board must therefore presume that none has been issued.

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1/ The resolution authorized the conversion of appellant Astells' rental housing unit to the Mutual Help Homeownership Opportunity Program. Apparently, in order to approve such a conversion, the Department of Housing and Urban Development requires a tribal resolution approved by a BIA Superintendent.

Under the narrow circumstances of this case, it appears that Astells would have standing to raise the issue of the validity of a General Council meeting at which such a resolution was enacted. Normally, an individual tribal member lacks standing to challenge or defend the validity of a tribal election and/or tribal meeting in an appeal before the Board. See, e.g., Swab v. Sacramento Area Director, 25 IBIA 205 (1994).

It appears unlikely that appellant Cotton would have standing in this matter, as he apparently has no interest in the house and may not even be a tribal member.

From the materials submitted by appellants, it appears possible that there was a misunderstanding between appellants and the Superintendent, Central California Agency, and/or the Area Director concerning which meeting appellants were concerned about. It is clear, however, that the Area Director believed that the matter at issue was the August 7, 1994, meeting, and that he addressed only that meeting in his decision.

This case must therefore be remanded to BIA for an initial determination concerning the validity of the April 20, 1994, meeting. See, e.g., Redfield v. Billings Area Director, 13 IBIA 356 (1985). To avoid any confusion about the effect of the Area Director's April 28, 1995, decision on the unresolved issue, the Board vacates that decision. The Area Director may reissue a decision concerning the validity of the August 7, 1994, meeting if he finds it necessary to do so.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is docketed, the Area Director's April 28, 1995, decision is vacated, and this matter is remanded to him for issuance of a decision concerning the validity of the April 20, 1994, General Council meeting of the Lone Pine Paiute-Shoshone Indian Tribe.

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Anita Vogt  
Administrative Judge

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//original signed  
Kathryn A. Lynn  
Chief Administrative Judge